

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

CHAMBERS OF  
PAUL W. GRIMM  
UNITED STATES MAGISTRATE JUDGE

101 W. LOMBARD STREET  
BALTIMORE, MARYLAND 21201  
(410) 962-4560  
(410) 962-3630 FAX

August 10, 2001

RE: *Ausherman, et al. v. Bank of America, et al.*  
MJG-01-438

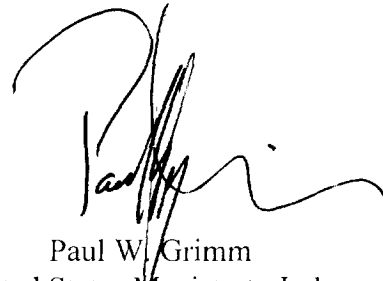
MEMORANDUM FOR COUNSEL

Dear Counsel:

The foregoing case has been reassigned to me for resolution of discovery disputes. Presently, plaintiffs seek rule 56(f) discovery (Paper No. 7) and to compel compliance with a subpoena (Paper No. 16). Defendant Bank of America ("B of A") seeks to stay all discovery until after Judge Garbis has ruled on the pending motion to dismiss or, in the alternative, for summary judgment, and, if unsuccessful in blocking all discovery, asks to limit the scope of any discovery until after a ruling on its preliminary dispositive motion. (Paper No. 8).

Judge Garbis has advised the undersigned that he intends to treat B of A's pending motion as a motion to dismiss, not a summary judgment motion. Therefore, he does not intend to consider any matters extrinsic to the plaintiffs' complaint, which is challenged by B of A. Accordingly, plaintiffs' request to conduct Rule 56(f) discovery is premature. Further, until Judge Garbis has ruled on the pending motion to dismiss, there is no need to commence discovery, which should be deferred until after it is known whether the case will go forward.

Therefore, it is **ordered** that all discovery in the pending action is STAYED until after a ruling on B of A's motion to dismiss. This informal memorandum is an order of the Court, and will be so docketed. It disposes of Paper Nos. 7, 8 and 16.



Paul W. Grimm  
United States Magistrate Judge

cc: Honorable Marvin J. Garbis  
Honorable James K. Bredar  
Clerk

